

Department of Planning and Budget 2004 Fiscal Impact Statement

1. **Bill Number** HB826

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. **Patron** Drake

3. **Committee** House Courts of Justice

4. **Title** Acquisition of property by Commonwealth; strengthening 'Landowner's Bill of Rights'

5. Summary/Purpose:

If the state agency permits an owner or tenant to occupy the property acquired on a rental basis for a short term for a period subject to termination by the state agency on a short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier. The fair rental value of the property to a short-term occupier is less than the fair rental value to a long-term occupier. The agency shall not offer or introduce a lower appraisal at trial than the appraisal provided to the owner in conjunction with its offer as required by this section. Any owner whose property is taken pursuant to the power of eminent domain and who recovers at trial more than 15 percent above the value of the condemning authority's initial offer shall receive all reasonable costs and experts' fees, excluding attorneys' fees, expended in the owner's behalf. All condemnation cases shall be given priority on the civil docket. The condemnor shall prepare an order permitting the owner to withdraw such funds and shall perform all work necessary to prepare and provide such order. This section is binding on all condemnors regardless of the statutory authority under which a condemnor proceeds.

6. **Fiscal Impact Estimates:** Cannot be determined

7. **Budget amendment necessary:** No.

8. Fiscal implications:

HB 826 could allow property owners to recover, at trial, reasonable costs and expert's fees (excluding attorney fees) when the just compensation awarded exceeds the amount specified in the highest written offer by 15 percent or more. According to the Department of Transportation, the provision may discourage settlement by agreement, and thus has the potential to increase project construction costs substantially. Based on cases tried in fiscal year 2003, 40 cases exceeded 15 percent of the written offer.

9. **Specific agency or political subdivisions affected:** State Agencies who have the power of eminent domain, and the court system.

10. **Technical amendment necessary:** No.

11. **Other comments:** Legislation introduced in 2000 (SB 111) proposed similar changes, but also included attorneys' fees.

Date: 02/11/04 / jlm

Document: (DPB G:\Leg 04\HB826.DOC)

cc: Secretary of Transportation